

REMARKS

Claim 1 has been amended and claim 5 has been cancelled. Claims 1-4 are now pending.

In the Office Action, the Examiner rejected claims 1-4 under 35 U.S.C. § 103(a) as being unpatentable over Meier (U.S. Patent No. 4,669,878). Claim 5 is objected to because it is said to lack antecedent basis. Applicants traverse these objections and rejections, at least for the following reasons.

Applicants have amended the objected-to language previously set forth in claim 5 so that it is no longer found within any of the pending claims. Accordingly, Applicants respectfully request reconsideration and withdrawal of the antecedent basis objection previously applied to claim 5.

Applicants note that the pending Office Action has not applied a rejection to claim 5. Accordingly, since the subject matter previously recited in dependent claim 5 has not been incorporated into independent claim 1, and since claim 5 has not been rejected, Applicants respectfully submit that independent claim 1 and its dependent claims should now be in condition for allowance.

Applicants further traverse the rejection of claim 1 for a number of additional reasons.

First of all, in rejecting claim 1, the Office Action improperly relies hindsight reasoning in the Applicants' own specification in providing a motivation for the proposed obviousness modification. Specifically, in providing motivation for the proposed modification of Meier, the Office Action states that "applicant discloses in the specification that the benefit in having the spectroscopic means appear "before" the light shielding means (in the direction of light

propagation) is so that the intensity/quantity of monochromatic light produced is constant, irrespective of the wavelength of light being produced. . . . Therefore, applicant is claiming a mere rearrangement of parts, which fails to produce a different result than what is already disclosed by Meier. Therefore, it would have been obvious to have provided the spectroscopic means of Meier before the reflecting/blocking means since both arrangements in the invention of Meier would produce substantially the same result - a constant intensity monochromatic light beam capable of being quickly and efficiently varied.” In view of these statements, Applicants submit that the rejection of claims 1-4 must fail at least because it improperly relies on the Applicants’ own disclosure. See M.P.E.P. 2143, citing *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991)(“The teaching or suggestion to make the claimed combination . . . must . . . be found in the prior art, not in applicant’s disclosure”)(emphasis added).

With further regard to independent claim 1, Applicants submit that the applied art of record does not disclose or suggest the combination of claim 1 wherein said swinging first and second galvanometric scanners have axes that extend in different directions from each other. In this regard, Applicants note that the Office Action states that “Regarding claim 5, the axis of the first galvanometric scanner can be considered vertical and the axes of the second galvanometric scanner can be considered horizontal - thus extending in different directions from each other, see figure 2.” In response to this point, Applicants advise that the axes of the alleged first and second galvanometric scanners 88a, 91a, extend in the same direction. Accordingly, they do not correspond to the recitation previously set forth in claim 5, and now set forth in independent claim 1, wherein said swinging first and second galvanometric scanners have axes that extend in

different directions from each other. For at least this reason, Applicants respectfully submit that the combinations now recited in independent claim 1 and its dependent claims 2-4 patentably distinguish over the applied art of record.

Accordingly, reconsideration and withdrawal of the art rejections applied to the pending claims is respectfully requested.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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